

STATE OF SOUTH CAROLINA

(Caption of Case)

IN RE:

Application of Daufuskie Island Utility
Company, Inc., for Approval to Transfer
Stock to Remove Daufuskie Utility
Company, Inc. From Its Current Status
As A Subsidiary of CK Materials, LLC

BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

COVER SHEET

DOCKET
NUMBER: 2013 - 329 - WS

(Please type or print)

Submitted by: Thomas A. Holloway

SC Bar Number: 14196

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Beaufort

Fax: 843-524-6973

SC 29901

Other: _____

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NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for use by the Public Service Commission of South Carolina for the purpose of docketing and must be filled out completely.

DOCKETING INFORMATION (Check all that apply)

☐ Emergency Relief demanded in petition

☐ Request for item to be placed on Commission's Agenda
expeditiously

☐ Other: _____

INDUSTRY (Check one)	NATURE OF ACTION (Check all that apply)		
<input type="checkbox"/> Electric	<input type="checkbox"/> Affidavit	<input type="checkbox"/> Letter	<input type="checkbox"/> Request
<input type="checkbox"/> Electric/Gas	<input type="checkbox"/> Agreement	<input type="checkbox"/> Memorandum	<input type="checkbox"/> Request for Certification
<input type="checkbox"/> Electric/Telecommunications	<input type="checkbox"/> Answer	<input type="checkbox"/> Motion	<input type="checkbox"/> Request for Investigation
<input type="checkbox"/> Electric/Water	<input type="checkbox"/> Appellate Review	<input type="checkbox"/> Objection	<input type="checkbox"/> Resale Agreement
<input type="checkbox"/> Electric/Water/Telecom.	<input type="checkbox"/> Application	<input type="checkbox"/> Petition	<input type="checkbox"/> Resale Amendment
<input type="checkbox"/> Electric/Water/Sewer	<input type="checkbox"/> Brief	<input type="checkbox"/> Petition for Reconsideration	<input type="checkbox"/> Reservation Letter
<input type="checkbox"/> Gas	<input type="checkbox"/> Certificate	<input type="checkbox"/> Petition for Rulemaking	<input type="checkbox"/> Response
<input type="checkbox"/> Railroad	<input type="checkbox"/> Comments	<input type="checkbox"/> Petition for Rule to Show Cause	<input type="checkbox"/> Response to Discovery
<input type="checkbox"/> Sewer	<input type="checkbox"/> Complaint	<input checked="" type="checkbox"/> Petition to Intervene	<input type="checkbox"/> Return to Petition
<input type="checkbox"/> Telecommunications	<input type="checkbox"/> Consent Order	<input type="checkbox"/> Petition to Intervene Out of Time	<input type="checkbox"/> Stipulation
<input type="checkbox"/> Transportation	<input type="checkbox"/> Discovery	<input type="checkbox"/> Prefiled Testimony	<input type="checkbox"/> Subpoena
<input type="checkbox"/> Water	<input type="checkbox"/> Exhibit	<input type="checkbox"/> Promotion	<input type="checkbox"/> Tariff
<input checked="" type="checkbox"/> Water/Sewer	<input type="checkbox"/> Expedited Consideration	<input type="checkbox"/> Proposed Order	<input type="checkbox"/> Other: _____
<input type="checkbox"/> Administrative Matter	<input type="checkbox"/> Interconnection Agreement	<input type="checkbox"/> Protest	
<input type="checkbox"/> Other: _____	<input type="checkbox"/> Interconnection Amendment	<input type="checkbox"/> Publisher's Affidavit	
	<input type="checkbox"/> Late-Filed Exhibit	<input type="checkbox"/> Report	

Print Form

Reset Form

)	
)	
IN RE:)	
)	PETITION TO INTERVENE
Application of Daufuskie Island Utility)	
Company, Inc., for Approval to Transfer)	
Stock to Remove Daufuskie Utility)	
Company, Inc. From Its Current Status)	
As A Subsidiary of CK Materials, LLC)	

1. On August 30, 2013 Daufuskie Island Utility Company, Inc. (DIUC or Applicant), filed an Application for approval to transfer stock in DIUC. The application was filed pursuant to 26 SC Code Regs R.103-704, R.103-504, R.103-743, R.103-541 (Supp. 2011). According to the Application, DIUC provides water and wastewater services on Daufuskie Island, Beaufort County, South Carolina. Within its service area, DIUC provides water supply and distribution service and sewer collection and treatment services to residential and commercial customers.

2. Paragraph 4 of DIUC’s Application for Approval to Transfer Stock states, “transfer of stock described herein is necessary to pay debts and accomplish the loan, repairs, and improvements described in Order No. 2012-515. The loan was specifically approved in Order No. 2012-930 and Order No. 2013-605.” DIUC’s Petition further alleges in

paragraphs 11 through 13 that, “the transfer of stock will not result in change in management or operation of DIUC, no service to customers will be effected, the transfer of stock is necessary to close the transaction for financing, and the proposed transfer of stock is for a lawful object to accomplish a legitimate corporate purpose and is essential to allow DIUC to close the loan with Sun Trust that was approved by the Commission.”

3. Paragraph 14 of the Application states, “DIUC’s proposed transfer of stock is reasonably necessary, appropriate for and consistent with the proper performance of DIUC’s service to the public and will not impair DIUC’s ability to perform that service. The transaction will enhance DIUC’s ability to serve the public by enabling DIUC to obtain a loan that is necessary to maintain, repair and improve its facilities.”

4. Upon information and belief, DIUC is not the lawful owner of the property that contains the 125,000 gallon elevated water tank that provides the pressure to operate the water/sewer system and has no means or ability to lawfully obtain the property. Further, ownership of the facilities necessary to operate the utility is believed to be a material term of the alleged financing agreements. Transfer of stock will not provide DIUC with the ability to close the transaction or to allow the acquisition the Petitioner’s .337 acre property, well, pump and 125,000 elevated water tank that is subject of this petition.

GROUND FOR INTERVENTION

5. Intervenor, Mamdouh Sabry Abdelrahman, is the owner of .337 acre tract in the Haig Point, Daufuskie Island, South Carolina by virtue of a Tax Deed from Douglas Henderson, Treasurer of the County of Beaufort, dated December 1, 2011 and recorded in Book 03102 at Pages 0169-0170 in the Office of the Registrar of Deeds for Beaufort County, State of South Carolina. This property contains the well, pump, pump house and 125,000

gallon elevated water tower that runs the Daufuskie Island Utility Company, Inc., Water and Sewer Utility System.

6. Upon information and belief, DIUC is unable to refinance its obligations per Order No. 2012-930 and 2013-605 because ownership of the Petitioner's parcel and related infrastructure is material to the lender.

7. DIUC's filed an action in the Circuit Court, Beaufort County Docket Number 2012-CP-07-02715, in a failed attempt obtain Petitioner's property for purposes of use and ownership by DIUC. That case was dismissed by the Circuit Court on April 8, 2013.

8. Applicant recently filed a subsequent Circuit Court Action in an attempt to again acquire Petitioner's parcel with the well, pump house and water tower site previously described, by virtue of Condemnation Action under Beaufort County Docket No. 2013-CP-07-2338, filed on September 12, 2013. Petitioner has contested the Condemnation of his property in a separate proceeding, Beaufort County Docket Number 2013-CP-07-02255, filed on September 4, 2013, on the grounds that DIUC is barred from instituting successive actions to acquire property as well as constitutional, statutory and procedural grounds. Further, in the unlikely event that DIUC possessed the lawful ability to acquire the property through the process of Eminent Domain, DIUC does not appear to have the means or ability to meet the projected acquisition costs in excess of \$1,000,000.00.

9. Petitioner/Intervenor has a vital interest in this proceeding. Upon information and belief, DIUC's request for approval for financing and stock transfer wrongfully include the premise that DIUC owns the real property, facilities and infrastructure to operate the Water/sewer utility. This matter is of vital interest to the Petitioner, the Public Service Commission of South Carolina, SCDHEC and to customers and rate payers. Participation

in this docket will allow Petitioner/Intervenor to protect its real property interest.

10. Petitioner/Intervenor's authorized representative in this proceeding is Thomas A. Holloway, Esquire, Harvey & Battey, P. A. Law Firm, 1001 Craven Street, Post Office Box 1107, Beaufort, South Carolina 29901-1107. Phone Number 843.534.3109, Facsimile Number 843.524.6973.

11. Petitioner/Intervenor requests that he be allowed to intervene in the above captioned matter, that he be permitted to participate fully as a party of record, to present testimony, cross examine witnesses and assert whatever positions he deem appropriate.

WHEREFORE, Intervenor prays for the following relief.

A. That the Commission accept this Petition to Intervene and make Petitioner/Intervenor a party of record;

B. That the Commission allow this Intervenor to participate fully in this proceeding and take such positions as they deem advisable.

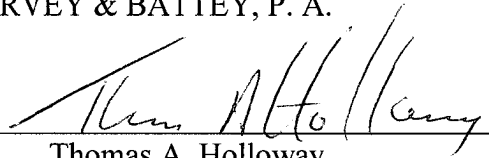
C. For such other and further relief as is just and proper;

SIGNATURES ON FOLLOWING PAGE

Respectfully submitted,

HARVEY & BATTEY, P. A.

By:



Thomas A. Holloway

P.O. Drawer 1107, 1001 Craven St.

Beaufort, SC 29901-1107

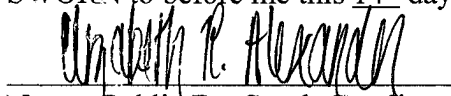
(Tel) 843.524.3109 (Fax) 843.524.6973

Attorney for the Intervenor

Beaufort, South Carolina

October 14, 2013

SWORN to before me this 14th day of October, 2013.



Notary Public For South Carolina

Commission Expires:

BEFORE THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

DOCKET NO. 2013-329-WS

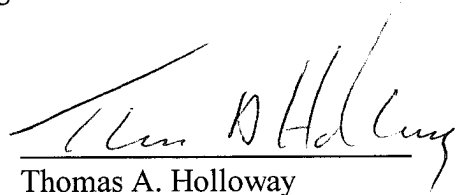
IN RE:)	
)	
Application of Daufuskie Island Utility)	
Company, Inc., for Approval to Transfer)	CERTIFICATE OF SERVICE
Stock to Remove Daufuskie Utility)	
Company, Inc., From Its Current Status)	
as A Subsidiary of CK Materials, LLC)	

This is to certify that I have caused to be served this day the Petition To Intervene of the Application of Daufuskie Island Utility Company, Inc., for Approval to Transfer Stock to Remove Daufuskie Utility Company, Inc., From Its Current Status as A Subsidiary of CK Materials, LLC, via first-class mail service and electronic mail service as follows:

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Thomas A. Holloway

Beaufort, SC
October 14, 2013